

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Saint Paul District

FILE NUMBER: MVP-2007-396-TJH

PROJECT MANAGER: Tom Hingsberger

PROJECT REVIEW/DETERMINATION COMPLETED: In the office? Y ☒ N ☐ Date: 2/15/2007

At the project site? Y ☐ N ☐ Date:

PROJECT LOCATION INFORMATION:

State: MN

County: Sherburne

Center coordinates of site by latitude & longitude: 45.4753285152658/-94.0315291382836

Approximate size of site/property (including uplands) in acres: 80

Name of waterway or watershed: Clearwater-Elk, MN

| Type of Aquatic Resource1: | 0-1 ac | 1-3 ac | 3-5 ac | 5-10 ac | 10-25 ac | 25-50 ac | > 50 ac | Linear Ft | Unknown |
|-----------------------------|--------|--------|--------|---------|----------|----------|---------|-----------|---------|
| Lake | | | | | | | | | |
| River | | | | | | | | | |
| Stream | | | | | | | | | |
| Mudflat | | | | | | | | | |
| Sandflat | | | | | | | | | |
| Wetlands | 4 | | | 1 | | | | | |
| Slough | | | | | | | | | |
| Prairie Pothole | | | | | | | | | |
| Wet Meadow | | | | | | | | | |
| Playa Lake | | | | | | | | | |
| Vernal Pool | | | | | | | | | |
| Natural Pond | | | | | | | | | |
| Other Water (identify type) | | | | | | | | | |

1 Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

| Migratory Bird Rule Factors1 | If Known | | If Unknown Use Best Professional Judgment | | |
|---|----------|----|--|-----------------------|--------------------------------|
| | Yes | No | Predicted to Occur | Not Expected to Occur | Not Able to Make Determination |
| Is or would be used as habitat for birds protected by Migratory Bird Treaties? | | | | | X |
| Is or would be used as habitat by other migratory birds that cross state lines? | | | X | | |
| Is or would be used as habitat for endangered species? | | | | X | |
| Is used to irrigate crops sold in interstate commerce? | | | | X | |

1 Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION:

Preliminary

☐

Or

Approved:

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FILE NUMBER: MVP-2007-396-TJH

ADDITIONAL INFORMATION SUPPORTING njd (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite):

Review of the 7.5 min. USGS topographic maps, 2003 FSA aerial photos, and NWI all indicate that the wetland basins referenced in the permit application as C-3 (0.9 acre), BC-1 (0.75 acre), BC-2 (4.25 acres), BC-3 (5.01 acres), and the Mitigation Basin (0.67 acre) located along the project alignment are isolated and have no connection to waters of the United States. The isolated wetlands that would be impacted by this linear project are located entirely within Sherburne County, Minnesota. The subject wetlands are isolated and are not adjacent to or part of a tributary system of navigable, interstate, or other waters of the United States. This determination concludes that an interstate or foreign commerce nexus is not present. The subject waterbodies are not waterbodies the use, degradation or destruction of which are likely to affect interstate or foreign commerce. The wetlands have not been used for recreational purposes. The waterbodies are not waters of the U.S. as defined at 33 CFR 328.3 and are not subject to Corps jurisdiction under Section 404 of the Clean Water Act.

The Mississippi River, wetlands adjacent to the Mississippi River, and wetlands that are adjacent to or part of the tributary system of the Mississippi River that are within the permit area of the I-94/TH-10 Interregional Connection Project are not included in this Determination of No Jurisdiction.